

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

JENNIFER PHAIR, AS PERSONAL *
REPRESENTATIVE OF THE *
ESTATE OF ROBERT L. PHAIR, *
JR., *

Plaintiff

v.

GREAT PLAINS TRUCKING, INC., *

Defendant *

CIVIL ACTION

DOCKET NO.:

COMPLAINT AND DEMAND FOR JURY TRIAL

PARTIES

1. Plaintiff Jennifer Phair (“Jenn” or “Plaintiff”) is the Personal Representative of the Estate of Robert L. Phair, Jr. (“Robert”), who died on January 18, 2021, at the age of 64. Jenn is Robert’s daughter.

2. Until his death, Robert was a resident of Livermore Falls, Androscoggin County, Maine.

3. Jenn is a resident of Barlett, New Hampshire.

4. Defendant Great Plains Trucking, Inc. (“Defendant”) is a corporation that provides inter-state trucking services, with its principal place of business in Salina, Kansas.

5. At all times relevant to this action, Ronald L. Schmidt (“Schmidt”) was an employee and/or agent of Defendant, acting within the scope of his duties. Accordingly, Defendant is vicariously liable for Schmidt’s actions.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because:

(a) there is complete diversity of citizenship between Plaintiff and Defendant and (b) the amount in controversy exceeds \$75,000.

7. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, because the actions complained about herein occurred in the State of Maine, Androscoggin County.

FACTS

8. On January 4, 2021 at approximately 5:08pm, Robert was driving a 2015 Ford pickup truck northbound on Route 4/Turner Road in Auburn, Maine.

9. Schmidt was driving a tractor and semi-trailer owned by Defendant.

10. Schmidt left Wallingford Equipment Co., Inc., a motorsports store located at 2527 Turner Road and turned onto Blanchard Road.

11. Schmidt then negligently attempted to execute a left-hand turn from Blanchard Road onto Turner Road (Route 4), causing the trailer to block the roadway.

12. At the same time and place, Robert was driving north on Route 4.

13. As a direct and proximate result of the negligence of Defendant, Robert crashed into Defendant's trailer.

14. In addition to negligently executing the left-hand turn and blocking oncoming traffic, Defendant's tractor-trailer violated Federal regulations requiring reflectors on the side of the tractor-trailer. *See, e.g.*, 49 CFR § 393.9(b).

15. The violation of Federal law was done with deliberate indifference, recklessness and actual or implied malice, creating a significant danger and risk of harm to other vehicles on the public roads, including Robert's vehicle.

15. As a result of the crash, Robert suffered serious and life-threatening injuries, and was transported by ambulance to Central Maine Medical Center, where he remained until January

18, 2021.

16. On January 18, 2021. Robert died as a result of the injuries caused by the negligence of Defendant.

COUNT I. WRONGFUL DEATH

17. Plaintiff re-alleges all preceding paragraphs as if set forth herein.

18. At all times material to this Complaint, Defendant Great Plains Trucking, Inc., by and through its employees and agents, including Ronald L. Schmidt owed a duty to operate its trucks in a reasonable manner.

19. Defendant breached its duties of care by, among other things:

- (a) failing to observe and respond to the movements of other vehicles;
- (b) failing to yield to oncoming traffic;
- (c) making a left-hand turn into oncoming traffic;
- (d) violating federal and state trucking regulations, including, *inter alia*, 49 CFR § 393.9(b); and
- (e) in other respect driving without sufficient regard for the safety of other motorists.

20. As a direct and proximate result of Defendant's negligence, Robert Phair suffered severe injuries and later died as a result of those injuries.

21. As a direct and proximate result of Defendant's negligence, Plaintiff has suffered emotional distress, loss of care, comfort, and companionship, pecuniary losses, and funeral expenses.

COUNT II. SURVIVAL

22. Plaintiff re-alleges all preceding paragraphs as if set forth herein.

23. As a direct and proximate result of Defendant's negligence, Robert Phair endured a period of conscious pain and suffering prior to his death.

COUNT III. PUNITIVE DAMAGES

24. Defendant elected to place its own business interests above the safety of public, by modifying its trucks to obscure and eliminate reflectors on the side of the truck in violation of Federal motor vehicle safety standards.

25. Such conduct is sufficient to satisfy the standard of actual or implied malice required to establish punitive damages.

26. Plaintiff claims punitive damages relating to the wrongful death claim as provided by Maine's Death Act as well as punitive damages available in connection with Plaintiff's survival claim based upon the common law.

WHEREFORE, Plaintiff prays for judgment as follows:

1. All categories of damages recoverable under Maine's Death Act, including emotional distress, loss of consortium, pecuniary loss, medical expenses, funeral expenses and punitive damages.
2. All damages recoverable for decedent's common law injury claim, which survives decedent's death and becomes property of the estate, including damages for decedent's emotional distress, pain and suffering and punitive damages.
3. Interest, costs, and such other relief as the Court deems just and equitable.

Demand for Jury Trial

Plaintiff hereby requests that her claim be tried by a jury.

Date: September 13, 2021

/s/ Taylor Asen, Esq.
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